Supreme Court, U.S.
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No. 04-

IN THE
Supreme Court of the United States

MORTON M. LAPIDES, SR.

Petitioner,

v.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
(Northern Division)

Respondent.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Rule 1 of the Federal Rules of Civil Procedure states that all suits of a civil nature shall be construed and administered to secure the just, speedy, and inexpensive determination of every action. Three important motions remain unanswered or ignored, namely, a Motion for United States Bankruptcy Judge James F. Schneider to recuse himself, which was filed 392 days ago, a Motion for Relief from Judgment or Order under Rule 60 (b) remains unanswered for 252 days, and an Appeal to the Denial of the Motion for a Judge Other Than James F. Schneider to Review Rule 60 (b) remains unanswered for 197 days. Is this contrary to the scope and purpose of Rule Number 1?

2. Rule 6 requires that a reasonable extension for filing of an appeal be favorably considered for excusable neglect, which would include disability, illness of counsel, and unusual delay in the mails. *Pro se* Petitioner, is suffering from pancreatic cancer, and on July 3, 2003, was unable to perform normal bodily functions, along with the normal effects of pancreatic cancer, and did not receive Judge James F. Schneider's improperly addressed June 13, 2003 Memorandum [which was issued 834 days after the hearing contrary to Rule 1 above] until July 3, 2003 and was denied an extension to appeal. Is this excusable neglect?

3. Rule 7 requires that there shall be a complaint and an answer. If the "speedy" answer must come from the presiding judge himself per Rule 1 above, has the judge himself violated Rules 1 and 7?

QUESTIONS PRESENTED CONTINUED

4. Under Rule 8, would Judge Schneider by failing to answer a Motion for his Recusal, be considered to have avoided it, or denied it? Judge Quarles, an alumnus of Venable Baetjer & Howard, denied the Mandamus. The amount of verbiage devoted to the recusal, which the Mandamus was only requesting be answered, indicates the avoidance of the main issue, which is to comply with Rule 1. Has the answer been avoided, per the above for 392 days, with the complicity of the District Court contrary to the intent of Rule 8?

5. Rule 12 requires that a defendant shall answer within 20 days after being served with a summons and complaint. In this case, a recusal motion was filed against a judge, which as a layman I would believe would make him the defendant. Has this judge violated Rule 12 by not answering and avoiding a motion for his own recusal?

The right to a jury trial to resolve suits at common law is a fundamental right given by the Constitution to all United States citizens. The bankruptcy court did not meet the due process standards established by Congress and the Federal Rules requiring the trustees to make conclusionary reports that the serious claims which had been ruled non-dismissable under Rule 12(b)(6) by a Federal District Judge in the United States District for the Northern District of Illinois, Eastern Division, in Docket No. 01C3012 did not warrant any further litigation. The Bankruptcy Court

QUESTIONS PRESENTED CONTINUED

Question 5 continued

without any detailed memorandum of law had no judicially recognized basis for a ruling, which in essence terminated the litigation in favor of LaSalle Business Credit. [Part of this material is excerpted from the Brief Amicus Curiae of Citizens Foundation for a Cancer Free America, Inc. filed in the United States District Court for the District of Maryland.]

The denial of Judge Benson Legg, another alumnus of Venable Baetjer and Howard, of the appeal of Judge Schneider's August 22, 2002 decision, would have been appealed for pure inaccuracy, had Petitioner possessed unlimited funds. Petitioner was forced into a settlement by the bias and lack of answers to various motions, which eliminated a just, speedy, and inexpensive determination. Is this a violation of Rule 1?

6. Does the chart attached as Appendix D indicate biased handling of all matters affecting Petitioner?

7. Under Rule 52, the court should make certain findings and judge the credibility of witnesses. Remarkably, John Woods, house counsel of Petitioner's various companies, was found not to be a creditable witness in spite of his Harvard law degree, his own unblemished record when with Patton & Boggs, the Washington, DC law firm, before he joined the United States government as an attorney. Is this finding believable?

QUESTIONS PRESENTED CONTINUED

Number 7 Continued

Remarkably, in addition, the Bankruptcy Court found the following law firms' advice and documentation to all be unsatisfactory: Cooter, Mangold, Tompert & Wayson, Piper Marbury Rudnick & Wolfe, Ropes & Gray, Brown Raysman Millstein Felder & Steiner LLP, Proskauer Rose LLP, and Schulte Roth & Zabel. Even more remarkable was the judge finding and accepting all the allegations of the Plaintiff, which Venable had to realize were fictional, as well as accepting Venable's theory to amend Generally Acceptable Accounting Procedures (GAAP).

This all occurred while Petitioner was attempting to stay alive, and usually unaware, incapacitated or unavailable. Every destructive effort was made on the part of the Bankruptcy Court Judge hearing the case, and continued when the extension for appeal per Rule 6 above was filed, and the United States District Court for the District of Maryland in spite of Rule 6 and applicable case law prevented Petitioner from filing an appeal under normal legal proceedings. Is this behavior the procedure contemplated by Rule 52?

8. Rule 56 of the Federal Rules of Civil Procedure requires a detail analyses by the trustee(s), namely Joseph Pardo for Valley Rivet Company, Inc. and Zvi Guttman for VR Holdings, Inc.[1] The Bankruptcy Court, never made a ruling to justify terminating the

[1] Under §7630.38 Trustees, [FN11] the Trustee, Guttman never investigated the debtor's financial affairs, nor made any effort to seek

QUESTIONS PRESENTED CONTINUED

Number 8 continued

litigation similar to that undertaken by federal judges under the Federal Rules of Civil Procedure. Because detailed analysis of the law and facts relating to the merits of the pending litigation in Illinois District Court was not presented by the trustees to the bankruptcy judge, the bankruptcy judge was not in the position to determine on the merits whether the case justified dismissal or not. When the defendants, LaSalle Business Credit, et al filed a motion to dismiss for failure to state a claim, the U.S. District Court judge in Illinois did not dismiss counts II, III, IV, V and IX, (Case Number 00 C8145), which set forth specific claims for compensatory damages of $131,600,000, and punitive damages of $115,000,000, a total of $246,600,000. Were the plaintiffs entitled to full discovery to all issues in those claims under the Federal Rules of Civil Procedure, which were blatantly denied by the Bankruptcy Court?

9. The Federal Rules of Civil Procedure allowed the filing under certain circumstances of a motion for relief under Rule 60 (b). Two hundred and fifty-two days have passed since that motion was filed. It took Judge Schneider 46 days to deny a motion "that a judge other than himself be assigned to review the Rule 60 (b) filing", 197 days have passed since the appeal of that denial, and 252 days have past since

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equitable subordination of LaSalle Business Credit's claim, and admittedly entered into pre arrangements with Valley Rivet's Trustee's local counsel, Brooke Schumm, III.

QUESTIONS PRESENTED CONTINUED

Number 9 continued

the filing. In an effort to have this and other motions answered, a Mandamus was filed in the United States District Court for the District of Maryland, which was denied, which denial was confirmed by the United States Court of Appeals for the Fourth Circuit. Should the rules not be administered, and be buried, when such motions are distasteful to the lower and upper court?

10. Rule 63 relates to the "Inability of a Judge to proceed". The Citizens Foundation for a Cancer Free America, Inc. (CFA) recognized the problem described under Rule 63. CFA would have received a donation of $75 million to promote the use of alternative medicine with conventional medicine in combating cancer. CFA filed a Complaint of Judicial Misconduct or Disability in the United States Court of Appeals for the Fourth Circuit on October 11, 2003, to remove Judge Schneider from his position and having heard nothing, in January of 2004 requested an update from the Court of Appeals for the Fourth Circuit. On February 4, 2004 CFA received a letter saying that the court had determined not to remove Judge Schneider, and if CFA wished to appeal, they should have appealed prior to December 31, 2003, 31 days after the decision was made on December 1, 2003, which CFA never received a copy of. CFA wrote a letter to the presiding judge, William W. Wilkins, and never received the courtesy of an answer. Based on the facts presented, the questionable confusion continually surrounding the

QUESTIONS PRESENTED CONTINUED

Number 10 continued

entire matter, and the bias displayed, should the entire decision in the United State Bankruptcy Court for the District of Maryland dated August 13, 1999, which took 834 days to make contrary to Rule 1, be negated?

PARTIES

The parties to this proceeding are set forth in the caption. The United States Court of Appeals for the Fourth Circuit has denied a Motion to reverse the United States District Court for the District of Maryland (Northern Division) on June 17, 2004 (Appendix A), the United States District Court for the District of Maryland (Northern Division) has denied the Mandamus on March 8, 2004 (Appendix B) and denied Reconsideration on March 25, 2004 and the United States Court of Appeals for the Fourth Circuit has denied an En Banc Hearing on July 20, 2004 (Appendix C).

TABLE OF CONTENTS

	Page
Questions Presented	i
Parties	viii
Table of Authorities	x
Filings, Hearings and Decisions	xii
Short Life Expectancy	1
Opinions Below	1
Jurisdiction	2
Statutes and Regulation Involved	2
Statement of the Case	9
Reason for Granting the Writ	17

There are conflicts in different venues regarding the right to receive an extension of time to appeal, as well as conflicts regarding how, when, or under what circumstances a federal judge should recuse himself/herself or be recused.

Conclusion	22
Appendix A: Opinion by Court of Appeals 6/17/04	1a
Appendix B: Memorandum & Order by the District Court 3/8/04	4a
Appendix C: Petition for Rehearing En Banc 7/20/04	9a
Appendix D: Chart of Motions as of 10/15/04	10a

TABLE OF AUTHORITIES

Page(s)

CASES:

Oak Grove School District of Santa Clara County, Plaintiff and Appellant v. *City Title Insurance Company*, Civ No. 20409 dated 6/28/03 2

Chandler's Cove Inn, Ltd., Debtor, Lisa Scott, a minor, by her parent and natural guardian Shari Scott, Plaintiff, v. Robert L. Pryor, Defendant. Robert L. Pryor (Trustee in Bankruptcy of the Estate of Chandler's Cove Inn, Ltd. Case No. 086-60950-21), Counterclaim-plaintiff v. *Lisa Scott, a minor, by her parent and natural guardian Shari Scott, Shari Scott and Paul Scott*, Counterclaim-defendants, Bankruptcy No. 086-60950-21, Adv. No. 987-0070 filed May 20, 1987 2

*371 The Role of the Indenture Trustee in Reorganization cases under the Bankruptcy Code 3

28 U.S.C. §455(a) 5

Court of Appeals of Texas, San Antonio. In re *Glen Edward Heflin*. No. 04-03-00302-CV dated May 7, 2003 6

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Page(s)

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U.S. Trustee, the legislative history of the bankruptcy reform act of 1978..... 7

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Amicus Brief Curiae of Citizens Foundation for a Cancer Free America, Inc., filed 11/20/02 in the United States District Court for the District of Maryland in re: VR Holdings, Inc., Case No. 01-5-2239-JS (Chapter 7), in re: Valley Rivet Company, Inc. Case No. 01-5-2379-JS (Chapter 11), *Pamela W. Lapides*, Appellant versus *Zvi Guttman*, Chapter 7 Trustee for VR Holdings, Inc., *Joseph Pardo*, Chapter 11 Trustee for Valley Rivet Company, Inc. and *LaSalle Business Credit, Inc.* Appellees, Case No. L-02-CV-3156..... Passim

Federal Rules of Civil Procedure..... 18

FILINGS, HEARINGS AND DECISIONS

Comprehensive Settlement & Shareholders Agreement dated 4/11/97 - included as Exhibit C in Notice of Appeal to Denial of Petition of Mandamus filed on 4/30/04 in the Court of Appeals for the Fourth Circuit

Transcolor Corp., Plaintiff v. *Cerberus Partners, L.P. and Gordon Brothers Capital Corporation* filed in Prince Georges County, Maryland on 8/30/97, C.A. No. 97-16786

Amended Complaint for Monetary Damages w/Line requesting clerk to issue summons for Madeleine filed on 10/16/97 in *Transcolor Corp.*, Plaintiff, v. *Cerberus Partners, L.P., et al*, Defendants - Madeleine was added to suit filed on August 20, 1997

United States Bankruptcy Court for the District of Maryland in approximately 1998, Transcolor Corp. (TCC) placed in Chapter 7

Transcript of TCC 341 Hearing held on August 20, 1999, October 29, 1999 and November 8, 1999, conducted by Chapter 7 Trustee, Monique Almy of Ober Grimes, et al office at 120 E. Baltimore Street

Transcolor Corporation, Debtor, National City Bank of Minneapolis, Plaintiff, v. Morton M. Lapides, Sr., MML, Inc., Transcolor Corporation, Transcolor East, Inc., Transcolor West, Inc., American Basics Company and Alleco, Inc., Case No. 98-6-5483-JS - Complaint and Demand for Jury Trial dated 8/13/99 (in violation of Cooter/NCB agreement)

Filing, Hearings and Decisions continued

Transcolor Corporation Inc. v. *Cerberus Partners, LP*, Hearing on Motion for Summary Judgment before the Honorable James F. Schneider, United States Bankruptcy Court Judge, dated 10/6/99, Case. No. 98-6-5483-JS, Adv. No. 99-5464-JS

National Bank of Minneapolis, Plaintiffs v. *Transcolor Corporation, Morton Lapides, Sr. et al* - Transcript of Deposition of Morton M. Lapides, Sr. dated 7/24/00 in the United States Bankruptcy Court for the District of Maryland, Adv. Proceeding No. 99-5627-JS

Valley Rivet Company, Inc. and VR Holdings, Inc. filing for Bankruptcy in U.S. Bankruptcy Court for the District of Delaware (Delaware) Bankruptcy Petition #00-04553-MFW Filed on 12/11/00

Decision issued on Case No. 98-6-5483-JS, Adv. No. 99544-JS Hearing held on 01/0701

Transcript of Hearing in the United States Bankruptcy Court for the District of Maryland (Northern Division) Transcolor Corporation, Debtor, National City Bank of Minneapolis, v. Morton M. Lapides, Sr. Etal, Defendants, Hearing on August 13, 1999, No. 99-5627-JS beginning February 28, 2001

Order to change venue from Delaware to Baltimore, U.S. Bankruptcy Court District of Delaware (Delaware) Bankruptcy Petition #00-04533-MFW- Filed on 02/09/01

Filing, Hearings and Decisions continued

VR Holdings, Inc. and Valley Rivet Company, Inc., Plaintiffs, v. *LaSalle Business Credit, Inc., Durrel Corporation, Defendants* in the United States Bankruptcy Court for the District of Delaware, Case NO. 00-4553 and 00-4554, Jointly Administered Chapter 11, Adv. No. A-01-54 - Complaint Filed on 1/22/01

VR Holdings, Inc. and Valley Rivet Company, Inc., Plaintiffs, v. *LaSalle Business Credit, Inc., Durrel Corporation,* Defendants in the United States Bankruptcy Court for the District of Delaware, Case No. 00-4553 and 00-4554, Jointly Administered Chapter 11, Adv. No. A-01-54 Amended Complaint Filed on 2/9/01 to add Equitable Subordination

VR Holdings, Inc. and Valley Rivet Company, Inc., Plaintiffs, v. *LaSalle Business Credit, Inc., Durrel Corporation, Michael Sharkey, Herbert M. Kidd, II and Ellen T. Cook* in the United States District Court for the Northern District of Illinois, Eastern Division, Docket #01C 3012 - Complaint filed on 4/26/01

LaSalle Business Credit, Inc., Plaintiff, v. *Morton M. Lapides, Sr.*, Defendant. Defendant's Answer, Affirmative Defenses & Counterclaim Case No. 00 C8145 filed June 15, 2001

Transcript of Hearing in the United States Bankruptcy Court for the District of Maryland before Judge James F. Schneider on 9/7/01

Filing, Hearings and Decisions continued

VR Holdings, Inc. and Valley Rivet, Inc. Debtor, Case No. 01-5-2239 and 01-5-2379 - Hearing before the Honorable James F. Schneider, United States Bankruptcy Judge dated 8/22/02

Transcript of VR Holdings 1/29/02 - 341 creditors meeting in the United States Bankruptcy Court for the District of Maryland (Northern Division)

April 2003 Settlement Agreement and Mutual General Release Agreement between MML, Sr., et al and LaSalle, et al on Case #01-52239-JS so ordered 7/23/03

Transcolor Corporation, Debtor, *National City Bank of Minneapolis*, Plaintiff v. *Morton M. Lapides, Sr. Etal*, Case No. 98-6-5483-JS, Adv. No. 99-5627-JS - Memorandum Opinion Granting Complaint Against Morton M. Lapides, Sr., and Alleco Inc., for Fraudulent Misrepresentation, Fraudulent Concealment and Fraudulent Conveyance dated 6/13/03 issued by James F. Schneider, U.S. Bankruptcy Judge

Transcolor Corporation, Debtor, *National City Bank of Minneapolis, Plaintiff, v. Morton M. Lapides, Sr., et al,* Defendants, Case NO. 98-6-5483-JS, Adv. No. 99-56-27-JS - Notice of Appeal to extend time to Appeal, dated 8/5/03 [denied]

Transcolor Corporation, Debtor, *National City Bank of Minneapolis, Plaintiff, v. Morton M. Lapides, Sr., et al,* Defendants, Case No. 98-6-5483-JS, Adv. No. 99-56-27-JS - Motion to Appeal, dated 8/05/03 [denied]

Filing, Hearings and Decisions continued

Transcolor Corporation, Debtor, *National City Bank of Minneapolis, Plaintiff, v. Morton M. Lapides, Sr., et al,* Defendants, Case No. 98-6-5483-JS, Adv. No. 99-56-27-JS - Order Denying Motion for Extension of Time to Notice Appeal by James F. Schneider, U.S. Bankruptcy Judge dated 8/19/03 [denied]

Transcolor Corporation, Debtor, *National City Bank of Minneapolis, Plaintiff, v. Morton M. Lapides, Sr., et al,* Defendants, Case No. 98-6-5483-JS, Adv. No. 99-56-27-JS - in the United States Bankruptcy Court for the District of Maryland, Motion for US. Bankruptcy Judge James F. Schneider to Recuse Himself dated 8/19/03 [unanswered]

Transcolor Corporation, Debtor, *National City Bank of Minneapolis*, Plaintiff, v. *Morton M. Lapides, Sr., et al*, Defendants, Case No. 98-6-5483-JS, Adv. No. 99-56-27-JS - Appeal to Order DENYING Motion for Extension of Time to Notice Appeal by the United States Bankruptcy Court for the District of Maryland dated 8/27/03

Transcolor Corporation, Debtor, *National City Bank of Minneapolis*, Plaintiff, v. *Morton M. Lapides, Sr., et al*, Defendants, Case No. 98-6-5483-JS, Adv. No. 99-56-27-JS - in the United States Bankruptcy Court for the District of Maryland - Motion for a Confidentiality and Protective Order dated 9/16/03 [unanswered]

Filing, Hearings and Decisions continued

Morton M. Lapides, Appellant v. *National City Bank of Minneapolis*, Appellee in the United States District Court for the District of Maryland, Civil No. WDQ-03-2660, Bankruptcy No.: 98-6-5483-JS - Memorandum Opinion and Order DISMISSING Appeal by William D. Quarles, Jr. United States District Judge dated 12/2/03 regarding Appeal Judgment entered on June 13, 2003 by the Bankruptcy Court

Morton M. Lapides, Appellant, v. *National City Bank of Minneapolis*, Appellee, Civil No. WDQ-03-2660, Bankruptcy No. 98-6-5483-JS in the United States District Court for the District of Maryland - Request for Reconsideration of June 13, 2003 Memorandum Opinion and Order denying reconsideration of Appeal dated 12/11/03 [denied]

Morton M. Lapides, Appellant, v. National City Bank of Minneapolis, Appellee in the United States District Court for the District of Maryland, Northern Division -Memorandum Opinion and Order DENYING motion to reconsider appeal by Judge Quarles, Jr. dated 12/15/03

Transcolor Corporation, Debtor, *National City Bank of Minneapolis*, Plaintiff, v. *Morton M. Lapides, Sr., et al,* Defendants, in the United States Bankruptcy Court for the District of Maryland, Case No. WDQ03-2660, Bankruptcy No,. 98-6-5483-JS, Adv. Proc. No. 99-5627-JS - Motion for Relief from Judgment or Order Under Rule 60(b)of Rules of Civil Procedure dated 1/7/04 [unanswered]

Filing, Hearings and Decisions continued

Exhibits to Rule 60 (b)
Judge Schneider's Memorandum Opinion and Order dated 6/13/03
Letters to Debentureholders
Attorneys Opinion re Winterland TCC Leases were in compliance
Reimbursement and Sale Agreement
Lease and Licensing Agreement dated 8/14/96
Letter to John Woods, VP of Alleco dated 6/22/95 from Maslon
Transcolor Corp. Balance Sheet
Agreement dated 8/16/96

Transcolor Corporation, Debtor, *National City Bank of Minneapolis*, Plaintiff, v. *Morton M. Lapides, Sr., et al*, Defendants, in the United States Bankruptcy Court for the District of Maryland, Case No. WDQ03-2660, Bankruptcy No,. 98-6-5483-JS, Adv. Proc. No. 99-5627-JS - Motion for A Baltimore, Maryland Federal Bankruptcy Judge Other than James F. Schneider to be Assigned the Attached Motion (Rule 60(b)) dated 1/7/04 [denied]

Morton M. Lapides, Sr., Appellant, v. *National City Bank of Minneapolis*, Appellee, in the United States District Court for the District of Maryland, Civil Case No. WDQ03-2660, Bankruptcy No. 98-6-5483-JS, Adv. Proc. No. 99-5627-JS - Petition for Writ of Mandamus dated 2/20/04 [denied]

Filing, Hearings and Decisions continued

Exhibits to Petition for Writ of Mandamus
Recusal
Rule 60(b) Filing
Motion for Another Federal Bankruptcy Judge to review Rule 60(b)
Transcolor Corporation, Debtor, National City Bank of Minneapolis, Plaintiff, versus Morton M. Lapides, Sr., et al, Defendants, in the United States Bankruptcy Court for the District of Maryland - Denial by James F. Schneider, U.S. Bankruptcy Judge, for another Judge to Review Rule 60(b) dated 2/23/04

Morton M. Lapides, Sr., Appellant v. *National City Bank of Minneapolis*, Appellee, in the United States District Court for the District of Maryland (Northern Division) Civil Case No. WDQ04CV467, Civil Case No. WDQ03-2660, Bankruptcy No. 98-6-5483-JS, Adv. Proc. No. 99-5627-JS - Amendment to Petition for Writ of Mandamus dated 3/2/04 [unanswered]
Exhibits to Amendment to Mandamus
Denial from Judge Schneider dated 2/23/04
Motion for a Confidentiality & Protective Order

Morton M. Lapides, Sr., Appellant v. *National City Bank of Minneapolis*, Appellee, in the United States District Court for the District of Maryland, Civil Case No. WDQ04CV467, Civil Case No. WDQ03-2660, Bankruptcy No. 98-6-5483-JS, Adv. Proc. No. 99-5627-JS 3/2/04 - Appeal to Denial for Motion for Another Judge Other than James F. Schneider to be Assigned the Review of the Motion for Relief from Judgment or Order under Rule 60 (b) of rules of Civil Procedure dated 3/2/04 [unanswered]

Filing, Hearings and Decisions continued

Morton M. Lapides, Sr., Plaintiff, v. *National City Bank of Minneapolis*, in the United States District Court for the District of Maryland, Civil Case No. WDQ04CV467, Civil Case NO. WDQ03-2660, Bankruptcy No. 98-6-5483-JS, Adv. Proc. No. 99-5627-JS - Reconsideration for Petition for Writ of Mandamus dated 3/15/04 [denied]

Morton M. Lapides, Sr., Plaintiff, v. *National City Bank of Minneapolis*, in the United States District Court for the District of Maryland, Civil Case No. WDQ04CV467, Order by William D. Quarles, Jr. DISMISSING Reconsideration of Writ of Mandamus by Judge Quarles dated 3/25/04

Transcolor Corporation, Debtor, *National City Bank of Minneapolis*, Plaintiff, versus Morton M. Lapides, Sr., et al., Defendant/Appellant, Case No. 04-1442, in the United States Court of Appeals for the Fourth Circuit - Information Brief - Notice of Appeal to denial of reconsideration of petition for writ of mandamus dated 4/30/04 (signed 5/2/04) [denied]
Exhibits to Notice of Appeal to denial of mandamus
Exhibit A -Docket List
Exhibit B - Letter to Judge Wilkins from CFA dated 3/2/04
Exhibit C -Comprehensive Settlement and Shareholders Agreement
Exhibit 1 - Petition for Writ of Mandamus (with exhibits)
Exhibit 2 - Amendment to Petition for Writ of Mandamus (with exhibits)
Exhibit 3 - Objection to Order Granting Motion to Compel Production of Documents from Cooter & Mangold, Charles S. Winner, Carr Goodson and Morton M. Lapides, Sr. (with Exhibits):
Exhibit 4 -Appeal to Denial of Motion for a Judge Other Than James F. Schneider to be assigned the Review of 60 (b)

Filing, Hearings and Decisions continued

Exhibits to Notice of Appeal to denial of mandamus continued
Exhibit 5 - Memorandum from Judge Quarles dated 3/8/04 dismissing Petition for Writ of Mandamus
Exhibit 6 - Order from Judge Quarles dated 3/8/04 dismissing Petition for Writ of Mandamus
Exhibit 7 - Reconsideration of Petition for Writ of Mandamus
Exhibit 8 -Order dated 3/25/04 from Judge Quarles dismissing reconsideration of mandamus

Petitioner Morton M. Lapides, Sr. respectfully prays that this Court grant a writ of certiorari to review the judgment and opinion of the United States District Court for the District of Maryland (Northern Division) in Baltimore, Maryland entered on March 8, 2004. Petitioner furthermore prays, in view of the damages to 2,483 other people and entities, the denial of his constitutional rights, his own short life expectancy, and the amount of time (seven years) that has and could continue to lapse, that the Supreme Court if able take additional action(s) to cure the injustices inflicted. Comprehensive legal processes were disregarded by three lower courts, with no apparent corrective remedies available.

SHORT LIFE EXPECTANCY

Petitioner is seventy-five years old, has a limited and uncertain life expectancy caused by pancreatic cancer.

While incapacitated by his illness for seven years, damage was directly inflicted on 2,484 entities and individuals in the amount of $335 million, and the 100 million United States citizens afflicted with various types of cancer, 500 thousand of whom die annually were denied funds earmarked for cancer cure and research, due to how matters were handled preceding this most recent denial.

Petitioner is attempting to correct and expose the injustices while alive.

OPINIONS BELOW

The June 17, 2004 affirmation of judgment of the United States Court of Appeal for the Fourth Circuit, is set out at pp.1a of the Appendix A to this petition. The March 8, 2004 Memorandum and Order of the United States District Court

for the District of Maryland, is set out at pp. 4a-8a of the Appendix B. The July 20, 2004 opinion of the United States Court of Appeals for the Fourth Circuit, is set out in this petition on pp.9a as Appendix C.

JURISDICTION

The decision of the Court of Appeals for the Fourth Circuit was entered on March 8, 2004. The jurisdiction of this court is invoked pursuant to 28 U.S.C §1254.

STATUTES AND REGULATION INVOLVED

Regarding Recusal

It appears that the majority of Writs of Mandamus that are filed are to recuse a judge, and not force a reply. Petitioner was attempting to obtain answers so that if a motion were denied, there would be a basis of appeal. Notwithstanding, in Oak Grove School District of Santa Clara County, Plaintiff and Appellant, v. City Title Insurance Company, et al., Defendants and Respondents, Civ. No. 20409, District Court of Appeal, First District, Division 1, California filed on June 28, 1963, under Judges §55.1-Disqualification-Answer of judges. The failure of a judge to file an answer to a statement alleging his bias and prejudice within the five-day period allowed by Code Civ. ***684** Proc., § 170, subd. 5, has the same effect as if the judge admits his disqualification or is found disqualified. If that is the case, Judge Schneider should have never ruled on any of these related matters to begin with.

Under Chandler's Cove Inn, Ltd., Debtor, Lisa Scott, a minor, (Case No. 086-60950-21), filed May 20, 1987, under Judges 49(a), the recusal can never be based upon judge's adverse rulings made during the course of proceeding.

Under Judges 51(4), a judge shall not sit at trial if in his opinion, upon a motion, his relationship to a party disqualifies him. In this case Judge Schneider has a very close relationship with Irving Walker who was with Miles and Stockbridge, and has since changed affiliations. This matter was never addressed because the motion was never answered.

Judge Paul Mannes, in the United States Bankruptcy Court for the District of Maryland (Southern Division, Greenbelt, Maryland) handled the Bankruptcy of Alleco Inc. in October 1, 1993 under which a new trust indenture for publicly held debentures was issued. In 1995, with a vote of the majority of debenture holders, a supplemental indenture was adopted. That 1993 Bankruptcy was never completed due to administrative deficiency in communication, and remains open as of this date. Notwithstanding, Alleco has certain subsidiaries, namely Valley Rivet Company, Inc., and Transcolor Corp. The parent company of Transcolor Corp., as well as Valley Rivet Company, Inc., namely MML, Inc., made arrangements to purchase a California company, Winterland Concessions, Inc. (Winterland), to merge and enhance Transcolor Corp. Transcolor Corp. filed a civil action in the Circuit Court for Prince George's County, Maryland, which was later moved to Judge Schneider's Court in the United States Bankruptcy Court for the District of Maryland, (Northern Division). Petitioner questions the Baltimore Court's jurisdiction in that matter, with the Alleco Inc. case still open, notwithstanding Judge Schneider's accepting a case(s) that was outstanding elsewhere.

The Plaintiff in that Transcolor law suit, National City Bank of Minneapolis (NCB), the Indenture Trustee, retained the law firm of Venable Baetjer and Howard, to represent it. NCB. Contrary to "*371 The Role of the Indenture Trustee" NCB did not use any imagination, did not use the same

degree of care and skill as would a prudent man conducting his own affairs and the careless steps taken disenfranchised debenture holders by forcing Transcolor into a Chapter 7 Bankruptcy procedure. The two lenders to Winterland were represented locally by the Baltimore law firm of Miles & Stockbridge. In this very complicated matter, NCB through their attorney, Venable, forced Transcolor Corp. into bankruptcy and a Chapter 7 Trustee was appointed and confirmed by Judge Schneider, namely Monique Almy. There was an obvious close relationship between Ms. Almy and Venable.

The two lenders to the Winterland subsidiary of MML, Inc., were represented by Irving Walker of Miles & Stockbridge. Mr. Walker is greatly admired by Judge Schneider, and is the only living attorney mentioned in the Maryland Bar Association's recent annual yearbook. A Memorandum on the October 6, 1999 hearing, was not issued by Judge Schneider until January 9, 2001, or 15 months later. Cooter and Mangold representing Transcolor Corp. advised it to bring an appeal, and Ms. Almy the Transcolor Chapter 7 Trustee refused to allow an appeal. At a later hearing, a different trustee before Judge Schneider, in the same venue, eliminated an auction of assets which he had recommended, in the midst of a related case, admitting that this was what he thought that Judge Schneider wanted, and this is how he earns a living. The question is whether or not Ms. Almy is in that same category?

Another subsidiary, Valley Rivet Company, Inc. voluntarily filed for bankruptcy in the United States Bankruptcy Court for the District of Delaware, in Wilmington, Delaware, to avoid Judge Schneider in Baltimore, who had already demonstrated his bias in the Transcolor Corp./Winterland matter, per the motion for recusal. That case was eventually moved from Delaware to Baltimore to Judge Schneider's

court and not to Greenbelt where the Alleco case remained open.

True, a Motion for Recusal can never be based on the judge's adverse rulings made during the course of proceeding, but here we have a situation where there is a question of whether the judge had any right to hear the case to begin with, in that it was still open in another jurisdiction, which he should have been aware of.

Under 28 U.S.C. § 455 [FN2] and 144 [FN3]. A plaintiff's motion which seeks disqualification under 28 U.S.C. § 455, should be resolved under FN2. 28 U.S.C. § 455 (a) Any justice, judge or magistrate of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.
(b) He shall also disqualify himself in the following circumstances:
(1) Where he has a personal bias or prejudice concerning a party, [other circumstances are not applicable.]

The Hearing on August 22, 2002 describes in detail Judge Schneider's obvious bias toward "the Lapideses". At a hearing on September 7, 2001, he ruled that neither Mr. Lapides, Sr. nor any employees of Valley Rivet Company, Inc. destroyed or shredded any documents, other than copies and junk mail. However, in the August 22, 2002 hearing, he forgot how he had ruled eleven months earlier, and commented otherwise, outwardly demonstrating his bias. Through all of Judge Schneider's Memorandums, open court comments, admissions of not understanding certain facts and transactions, outward bias was displayed beyond any imagination. Under these circumstances, the question is whether under 28 U.S.C. § 455(a) the judge should have disqualified himself, and what was the proper venue?

Under Court of Appeals of Texas, San Antonio. In re Glen Edward Heflin. No. 04-03-00302-CV dated May 7, 2003, a trial judge abuses his discretion only if the motion [has been brought to his attention] and he refuses to rule on it within a reasonable time (Ramirez, 994 S.W.2d 682, 683 Tex. App. San Antonio 1998, orig. proceeding). The Petitioner in this case was unsuccessful, on the technicality that the judge was not aware or had not been made aware of the filing. Certainly, we have the case where on the same date, the 60 (b) motion was filed, and a request that another judge review it also was filed, and the substitution of judges was denied, thus proving awareness and the other filings still remain outstanding.

Section 455 again states that any justice, judge or magistrate judge of the United States shall disqualify himself in any proceeding in which presumed partiality might reasonably be questioned. Judge Schneider should have never heard any of these cases. It took the Judge 834 days to create fictional findings, [or adopt those fictional findings created by Venable supposedly on behalf of their client] and furthermore attempted to turn the fictional findings into a criminal act.

Regarding an Extension of Time to File an Appeal

In the United States District Court, S.D. New York, Active Glass Corp., Petitioner, v. Architectural and Ornamental Iron Workers Local Union 580, International Association of Bridge, Structural and Ornamental Iron Workers, et al., Respondents. No. 93 Civ. 5440 (PKL) dated October 10, 1995, Active Glass was granted an extension in this case, illness having prevented the timely filing on an appeal, as in Petitioner's case, and the extension was properly granted to Active Glass, but not to Petitioner with similar circumstances.

Islamic Republic v. Boeing, 739 F.2d at 465 ("illness involved diarrhea, vomiting, and a five pound weight loss over 36 hours"*)*. Under *J.P. Fyfe, Inc. v. Bradco Supply Corp.*, 96 B.R. 479, 483-84 (D.N.J.1989) (counsel "had taken medication for her illness, and was too ill to speak on the telephone"). Those facts satisfied an extension based on excusable neglect, and Petitioner believes that he was discriminated against by not only the Bankruptcy Court, but the District Court as well that would not recognize his illness, in addition to his not receiving notice of the Memorandum that took 834 days to issue, until 20 days from the time it was issued. Petitioner lost more weight over the same period of time, and was denied an extension.

Regarding the U.S. Trustee

The legislative history of the bankruptcy reform act of 1978 indicates that Congress expected U.S. Trustees to oversee administration of bankruptcy cases and to serve as bankruptcy watchdogs to prevent fraud, dishonesty, and overreaching in the bankruptcy arena [FN36]. The Act attempted to separate administrative and judicial functions in bankruptcy cases and insure a minimum standard of competence for those serving as trustees and was intended to eliminate the cronyism charges that surfaced under the 1898 Act.

Under § 581. United States Trustees, (21)(c). Each United States Trustee is subject to removal by the Attorney General. Petitioner contacted the Attorney General, to no avail. While the local attorney, Brooke Schumm, III, had the only key to the joint company offices, and on behalf of Joseph Pardo, the Chapter 11 trustee for Valley Rivet Company, Inc., he removed four computer hard drives, contrary to the instructions given by Judge Schneider at the September 7,

2001 hearing, which when Petitioner objected, Mark Neal acting Assistant U.S. Trustee volunteered to hold in his possession, as well as four boxes of very descriptive documents of Morton M. Lapides, Jr., then president of Valley Rivet Company, Inc., which he represented to Petitioner and to employee of Petitioner, Scott Tibaldi, that he was holding pending the selection of the trustee.

Actually, contrary to the 1978 Reform Act, it appears that he conspired with Brooke Schumm, III, (maintaining cronyism) who held the four boxes and the four computer hard drives the entire time, and Mr. Schumm finally admitted after all depositions were complete [see Amicus Brief], that he had the four boxes and that while in his custody, the four computer hard drives were destroyed. Judge Schneider refused to do anything about this, which was in the midst of all the publicity and complaints about the destruction of documents at Enron. Several valuable personal items, as well, disappeared when Mr. Brooke Schumm, III of the law firm of Daneker, McIntire, Schumm, Prince, Goldstein, Manning & Widmann held the only key. Neither the State's Attorney nor the police would get involved. The Chapter 7 trustee for VR Holdings, Inc., Zvi Guttman, apologized and admitted to Mrs. Lapides' attorney, Marc Kivitz, that he reversed his position on an auction of the VR Holdings suit against LaSalle Business Credit and others in the amount of $300 million, and agreed to sell it to LaSalle Business Credit, the Defendant, for $2,500, because this is what he believed Judge Schneider wanted him to do. This certainly is contrary to Title 28. Judiciary and Judicial Procedures and Chapter 39 United States Trustees. Obviously, in Petitioner's matters, the Bankruptcy Reform Act of 1978 was ineffective.

STATEMENT OF THE CASE

Before becoming ill with pancreatic cancer in December of 1995, Petitioner was Chairman of the Board of a series of family owned or controlled public and private companies, namely, Allegheny Beverage Corp., The Macke Company, VR Holdings, Inc., MML, Inc., Alleco Inc., Valley Rivet Company, Inc., Winterland Concessions and Transcolor Corp. (and subsidiaries). The combined companies, with revenues of $1.2 billion, operated in forty-three states plus the District of Columbia, Canada and England and employed 41,000 people.

Two thousand four hundred and eighty four entities and individuals, including a cancer charity, have been damaged in the amount of $335,861,924 due to comprehensive legal processes being disregarded by a Bankruptcy Court, a District Court (with a majority of judges being alumni of a Plaintiff's law firm, Venable) a Circuit Court of Appeals and two Baltimore, Maryland law firms with close relationships to the courts, that engineered the avoidance of nine Federal Rules of Civil Procedure, and participated in impeding normal judicial processes such as knowingly representing incorrect facts to a friendly court that would accept whatever Venable presented, which it did 834 days later.

During Petitioner's illness, his executives employed reputable and highly experienced attorneys for advice and documentation. Other than being consulted and driven to occasional meetings, Petitioner was incapacitated from December 1995, through early 2002 and lacked normal mental comprehension. Today, Petitioner has solved the puzzle and is attempting to correct what should have never transpired during his illness.

1. In 1993, Alleco Inc., after an adverse decision from a Minnesota Court regarding liability in the sale of certain assets that had been positively opined to, filed for Chapter 11 protection in the United States Bankruptcy Court for the District of Maryland (Southern Division) in Greenbelt, Maryland and established a new Trust Indenture that was amended in 1995, which continued immunity to all officers, directors and shareholders.

2. In 1996, MML, Inc. the parent of Alleco Inc., which owned Transcolor Corp. and Valley Rivet Company, purchased Winterland Concessions, a California company, using a $23 million six-month bridge loan. In 1998, MML, Inc. was sold to VR Holdings, Inc., in a restructuring requested by a lender, not merged, as Judge Schneider believes and has stated.

3. With advice and an opinion from Piper Marbury, (now Piper Rudnick), MML, Inc. arranged for Winterland Concessions, to purchase and/or lease all of the assets of Transcolor Corp., a screen printer, with lease payments totaling $14 million. Seven million dollars of these lease payments were earmarked to repay publicly held Alleco/Transcolor debentures, most of which are owned by 2,000 senior citizens or their heirs.

4. The two lenders of the bridge loan, represented by Miles & Stockbridge, namely Cerberus Partners (known as a Vulture Fund that manages $9 billion) and Gordon Brothers Capital Corporation, bribed Carl Kampel, the Chief Financial Officer of Winterland, a former partner of Laventhol & Horwath, who admitted to the bribe to Petitioner and house counsel, John Woods, and caused the bridge

loan not to be refinanced. Both Cerberus and Gordon Brothers agreed to settle and fund the purchase of Winterland on unaudited statements, which when completed and audited, agreed to adjust all formulas. Cerberus later refused, which created the foundation for protracted litigation. In 1997, the two lenders forced MML, Inc. to sell its stock of Winterland to the lenders, with certain concessions being given for a one-year period. It is believed that Warren Feder, the president of Gordon Brothers caused Winterland to hire his brother.

5. Three months after this Comprehensive Settlement and Shareholders Agreement was signed, the two lenders placed Winterland Concessions in bankruptcy, with Winterland's only non-technical default being not repaying a loan to its new owners, Cerberus and Gordon Brothers. The loan during the six-month period was reduced from $23 million to $13 million. Federal Bankruptcy Judge Schneider later characterized this period and the ten million-dollar reduction of the loan as "mismanagement". All of the obligations agreed to for the one-year period were eliminated thru Winterland's bankruptcy filing. This caused a "domino effect" on all of the related companies, including the Transcolor subsidiary, Valley Rivet, which its lender, LaSalle Business Credit took advantage of by creating untenable circumstances resulting in litigation, and attempting to force a sale of Valley Rivet Company to another client of the bank.

6. Transcolor, through its counsel Cooter and Mangold, filed an action against the two lenders in 1997, and a Summary Judgment Motion was scheduled to be heard on October 6, 1999. Three months prior to

that, on August 13, 1999, National City Bank of Minneapolis (NCB), the Trustee under the debenture issue, in violation of an agreement with Cooter and Mangold, by its attorney, Venable, filed a suit against Alleco/Transcolor and Mr. Lapides, Sr. (alleging fictitious occurrences) who was ill and unavailable during the period described in the suit.

7. During Mr. Lapides, Sr.'s illness in 1999, the unrelated President of a Transcolor subsidiary, Valley Rivet Company, Inc., an Illinois company, inflated its inventory, putting a recent loan made by LaSalle Business Credit, a subsidiary of LaSalle National Bank, [which itself is a subsidiary of ABN Amro, the Dutch bank recently charged with substantial money laundering], in default, which created the opportunity in 5. above.

8. Due to the constant problems with LaSalle Business Credit, as well as their harassment of the entire Valley Rivet organization, Valley Rivet and its new parent, VR Holdings, Inc. filed a joint suit of approximately $300 million against LaSalle Business Credit, first in Delaware and then re-filed in Illinois.

9. Morton M. Lapides, Jr. arranged for Valley Rivet to make a $50 million acquisition of one of its major customers, and arranged for financing in the amount of $70 million. This would have provided adequate funds to pay for the acquisition, pay LaSalle Business Credit 100% of its loan, and make all suppliers to Valley Rivet, current. He furthermore arranged for his family to provide $750,000 of interim funds pending the completion of the transaction, which was quickly dissipated by LaSalle imposing substantial fees and interest rate increases.

On December 2, 2000, on a Thursday, Morton M. Lapides, Jr. received a telephone call from the President of LaSalle Business Credit, Michael Sharkey, insisting on a meeting the following day with Valley's counsel, telling him that he wanted Valley Rivet to sell all of its assets to another client of the bank, Durrell Corp. of Aurora, Ohio and eliminate the obligations to pay Valley Rivet creditors $4,019,088. Morton M. Lapides, Jr. refused to go to the meeting, refused to cooperate in the LaSalle program regarding eliminating all Valley Rivet creditors, and the following Monday, December 6, 2000, Valley Rivet filed Chapter 11 Bankruptcy in the United States Bankruptcy Court, District of Delaware, in order to protect Valley Rivet's creditors and everyone else against LaSalle Business Credit's plan. To say the least, LaSalle's proposal was a severe conflict of interest.

Notwithstanding, LaSalle Business Credit who could have been completely repaid, succeeded in a program to sell to a third party, denied Valley Rivet Company purveyors $4,019,088, lost over $8 million from a federally insured bank, for reasons yet to be determined.

10. A cancer foundation was scheduled to receive a donation valued by experts at $75 million from Mr. & Mrs. Lapides, Sr. in the form of an equity interest in the combined company. (See 9. above) This was to celebrate Petitioner's survival, which is believed to have occurred due to the use of both conventional and alternative medicines, concurrently. It was hoped that continued research made possible by the funds being donated would cure many others.

11. The first Trustee selected by the Acting Assistant U.S. Trustee was objected to by VR Holdings and Valley Rivet Company in that he was of counsel for litigation to a firm representing LaSalle, had a mortgage on his personal home from LaSalle and had his personal checking account at LaSalle. Joseph Pardo was then suggested as the Chapter 11 Trustee, who had a three-year relationship with Riker Danzig, the law firm representing Valley's unsecured creditors. Riker Danzig at one time represented LaSalle Bank on another matter, and did appear to have done nothing to protect the unsecured creditors. When VR Holdings and Valley Rivet Company again objected to the new Trustee selection, Judge Schneider made derogatory comments at a bench conference about Mr. Lapides, Sr. VR Holdings and Valley Rivet Company agreed to Pardo with the LaSalle caveat not to object to VR Holdings departing bankruptcy. Pardo was appointed and LaSalle reneged. Thus, LaSalle completed their original plan, and eliminated Valley's creditors with the help of a friendly trustee, friendly law firms and a friendly court. Its assets were sold with the purchaser using financing from LaSalle Business Credit.

12. Judge Schneider rescheduled a hearing to August 22, 2002, with no notice to VR Holdings shareholders' counsel and witnesses, who were therefore not available, and did nothing when it was disclosed that LaSalle's attorneys, participated in the withholding and destruction of documents needed by VR Holdings and Valley Rivet Company to present their case. [See Amicus Brief].

13. Judge Schneider then placed VR Holdings in Chapter 7 at only LaSalle Business Credit's request contrary to 11. above. Neither the acting Assistant U.S. Trustee, nor the Valley Rivet Company unsecured creditors committee requested that VR Holdings, Inc., that had no obligations, be placed in Chapter 7. VR Holdings had only filed Chapter 11 Bankruptcy in the United States Bankruptcy Court, District of Delaware with its subsidiary Valley Rivet Company, to avoid similar occurrences of bias demonstrated by Judge Schneider in the Transcolor suit in Baltimore. Unfortunately, the case was moved from the United States Bankruptcy Court, District of Delaware to the United States Bankruptcy Court for the District of Maryland to Judge Schneider's court.

14. At the VR Holdings 341 Meeting on January 29, 2002, present were the Petitioner, VR Holdings' attorney Daniel Kennedy of Barkley & Kennedy, Trustee Zvi Guttman and Brooke Schumm, III, local counsel of Valley Rivet's trustee. Mr. Guttman's comment to Mr. Kennedy that he and Mr. Schumm had worked everything out summarized the meeting and describes what had and was transpiring.

15. At the August 22, 2002 Hearing, VR Holdings' counsel represented to the Court that the Oklahoma City law firm of Federman and Sherwood would handle the $300 million suit against LaSalle Business Credit on a completely contingent basis. VR Holdings had no creditors other than the Lapides family. Judge Schneider denied the offer of a completely contingent continuation of the suit against LaSalle National Bank's subsidiary, and allowed the $300 million case to be sold to LaSalle, the

defendant, for a mere $2,500, all of which was paid as a fee to Mr. Guttman.

The action was appealed to the United States District Court for the District of Maryland and denied by Judge Benson Legg, an alumnus of Venable, and there was no indication that the Amicus Brief was considered. This shocking disparity in amount, is a result of the Judge Schneider's efforts to eliminate the suit against LaSalle Business Credit, at an expense to all creditors. Judge Legg's opinion based on an error in facts would have been appealed had there been no settlement between LaSalle and the Petitioner.

16. In 2003, Alleco/Transcolor and Mr. Lapides settled with LaSalle on a walk away settlement in that a large bank can outspend an individual, and can retain a prominent law firm that Judge Schneider will completely and remarkably believe. Almost concurrently with the LaSalle settlement, Judge Schneider, twenty-eight months after the hearing in 2001, on June 13, 2003, belatedly brought down a judgment against Mr. Lapides, Sr. for $7 million on the suit filed August 13, 1999 (see 6. above), that Petitioner was prevented from appealing. Note from Appendix D that appeals are answered by both upper courts in short periods of time, but Judge Schneider of the United States Bankruptcy Court for the District of Maryland (Northern Division) not only takes long periods of time to answer (if answers are forthcoming at all) but his dilatory handling has been accepted and condoned by the upper courts. Petitioner maintains that the description of what transpired was substantially fictitious. (See Rule 60 (b) Motion). The attorney that handled the suit is no longer with Venable.

17. Mr. Lapides, Sr., who is 75 years old and ill, has been attempting to continue these actions, pro se. He has made at least seventeen filings with nine being denied, seven being unanswered (including a recusal motion for 392 days) and two adverse rulings, (see Appendix D). All appeals, be they in the United States District Court for the District of Maryland (Northern Division) in Baltimore, or in the United States Court of Appeals for the Fourth Circuit in Richmond, allows Judge Schneider's outrageous conduct to continue and be unanswered.

Note that two of the opinions rendered in the Settlement of MML, Inc.'s purchase of Winterland, along with the various leases that were signed between Winterland and Transcolor, were advised on, prepared and issued by Piper Marbury (now Piper, Rudnick). That matter has nothing to do with Valley Rivet Company. However, the local counsel to the Valley Rivet Company creditors' attorney, Riker Danzig (who had performed services for LaSalle), was Piper, Rudnick, per the above. Petitioner ceases to believe in coincidences.

18. It is virtually impossible to file a successful appeal against a client of Venable, in the United States District Court for the District of Maryland (Northern Division) in that three sitting judges are all alumni of Venable. Even the Fourth Circuit Court of Appeals allows these incestuous relationships to continue.

REASON FOR GRANTING THE WRIT

1. Petitioner has been unable to locate law cases where courts refuse to answer, take inordinately long

periods of time to rule, or outwardly ignore motions filed, with higher courts allowing and condoning this behavior. In filing the Writ of Mandamus on February 20, 2004 in the United States District Court for the District of Maryland (Northern Division) Petitioner was attempting to abide within what he believed to be normal procedures of civil litigation. The Mandamus did not request that a judge be recused, nor did it require an automatic approval of the Rule 60 (b) Motion that was filed, but only requested that a fair, unbiased ruling be issued after unfathomable delays contrary to Rule 1. It requested that a judge other than an alumnus of Venable, who was representing the plaintiff, review the case, which was never addressed by the Venable alumnus that reviewed the appeal. The United States Bankruptcy Court for the District of Maryland, the United States District Court for the District of Maryland, and the United States Court of Appeals for the Fourth Circuit, by allowing the ignoring of several motions filed, have denied Petitioner of his right under the constitution. For that alone a Writ of Certiorari should be granted.

2. Petitioner is 75 years old, is facing a short life expectancy due to pancreatic cancer, does not have the time remaining to be subjected to the abortive attempts to destroy a well conceived judicial system and at the same time is attempting to recoup the injustices not only against he and his family, but against a total of 2,484 people and entities, which actions described cost over $335 million in damages, while he is alive. Nine Rules of the Federal Rules of Civil Procedure were violated, namely 1, 6, 7, 8, 12, 26, 52, 56 and 63, preventing fair hearings and decisions and thus has appealed to the Supreme Court

where under Article III of the Constitution, Judicial Power is vested.

3. This Mandamus being denied indicates that the Bankruptcy Court, the District Court and the Circuit Court of Appeals are attempting to amend, ignore and eliminate the well conceived procedures of the judicial system as follows:

   a. Petitioner constitutional rights were denied effecting others as well.

   b. Nine Rules of Civil Procedure were violated.

   c. A series of circumstances occurring while Petitioner was ill, was taken advantage of by two major law firms, their clients, the Bankruptcy Court, and the District Court and warped into a fictitious set of facts.

   d. Two complicated matters that were completely unrelated, namely the MML, Inc. purchase of Winterland Concessions in conjunction with arrangements with Transcolor Corp., and the Valley Rivet Company, Inc. matter, were thrown together in the United States Bankruptcy Court for the District of Maryland (Northern Division), before a Judge that did not know or could not understand the facts, and even confused the two matters.

   e. After the biased handling of the Transcolor Corp. matter by the Bankruptcy Court, VR Holdings, Inc. and Valley Rivet Company, Inc. filed for bankruptcy in the United States Bankruptcy Court for the District of Delaware,

which was unfortunately transferred to Maryland, and even more unfortunately to Judge James Schneider. Petitioner's company's attorneys also appear to have been unaware that the 1993 Alleco case remained open.

f. On April 26, 2001 VR Holdings, Inc. and Valley Rivet Company, Inc. on advice of counsel, withdrew the Delaware suit against LaSalle Business Credit and sued LaSalle Business Credit in the United States District Court for the Northern District of Illinois (Eastern Division) to avoid jurisdiction by Judge Schneider, when the Delaware Court moved the Chapter 11 petition to Baltimore, which should have never been necessary.

g. Petitioner questions whether Judge Schneider should have recused himself simply based on his handling of the Transcolor Corp. matter, or passed it on to the United States Bankruptcy for the District of Maryland (Southern Division) in Greenbelt, Maryland, where the case of Alleco Inc. had never been closed, and where such judicial behavior had never been experienced. Proper procedure appears to indicate a conflict between the Greenbelt court and the Baltimore court.

Due to the injustices, the damages, and the time that has passed, Petitioner is requesting that the Supreme Court if constitutionally able, correct a judicial system that has caused such damage and if allowed to continue can injure other entities in other matters.

4. All of the various improprieties described in the Amicus brief filed by Charles Wheatley on November 20, 2002, in the United States District Court for the District of Maryland, could be repeated in the entire Winterland/Transcolor matter, Federal Rules and procedures were also aborted.

5. The conflicts in different venues regarding the right to receive an extension of time to appeal, as well as conflicts regarding how, when, or under what circumstances a federal judge should recuse himself or be recused are as follows:

   a. The conflicts in recusals shift from automatic recusal for not answering within the short period of time, all the way to non-recusal because of improper notification to the judge being questioned to recuse himself or herself.

   b. In conflicts in extension of time for appeals, the circumstances surrounding Petitioner most likely should have warranted a short extension of time had he not been residing in a jurisdiction covered by the United States Bankruptcy Court for the District of Maryland (Northern Division). Petitioner did not receive the June 13, 2003 Memorandum on a timely basis. It was addressed improperly, to an attorney that the court was well aware no longer represented Petitioner, and the continued illness certainly passed all health parameters.

CONCLUSION

Harry Truman said "The buck stops here". Petitioner has been given the opportunity to present the "buck" to the Supreme Court of the United States where all judicial power is vested. The variations should entitle Petitioner to a Writ of Certiorari. A Writ of Certiorari should be granted, but alone will not correct the magnitude of what has occurred over a seven-year period. Additional actions are requested by the Supreme Court, to guarantee the integrity of the entire legal system[1]. Legal representation that twists facts and knowingly presents those falsehoods to a friendly judge not sophisticated to these transactions, that admits in open court on the record to not understanding the case, should not be allowed. Denial of relief will allow repetition and produce injustices in other cases, with the risk of undermining the public's confidence in the judicial process.

Respectfully submitted,

Morton M. Lapides, Sr. *Pro Se*
2077 Maidstone Farm Road
Annapolis, MD 21401
410-349-4868

Counsel for Petitioner

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[1] Petitioner attempted to locate a law firm that would handle this on a pro bono basis, and decided to handle this *pro se* after the following conversation: One major law firm located in a major West Coast City, with five offices throughout the country in major cities, that handles all litigation on a contingent basis, stated that they would not take a case that touched the United States District Court for the District of Maryland or that had to be appealed in the United States Court of Appeals for the Fourth Circuit in Richmond, Virginia due to the identical experiences that Petitioner has been exposed to.

APPENDIX A

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-1442

MORTON M. LAPIDES, SR.,

Plaintiff - Appellant,

Versus

NATIONAL CITY BANK OF MINNEAPOLIS,

Defendant - Appellee.

Appeal from the United States District Court for the District of Maryland, at Baltimore. William D. Quarles, Jr., District Judge. (CA-04-467-1-WDQ)

Submitted: June 10, 2004 Decided: June 17, 2004

Before WILLIAMS and TRAXLER, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Morton M. Lapides, Sr., Appellant Pro Se. Gregory Alan Cross, Charles Michael Campisi, VENABLE, L.L.P., Baltimore, Maryland, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Morton M. Lapides, Sr. appeals from the district court's denial of his petition for writ of mandamus, which sought an order directing Chief Bankruptcy Judge Schnieder to act on a motion for recusal. Mandamus is a drastic remedy and should only be used in extraordinary situations. In re Beard, 811 F.2d 818, 826 (4th Cir. 1987). The appropriate remedy for a party aggrieved by a judgment is appeal. A petition for writ of mandamus is not a substitute for an appeal. In re Catawba Indians, 973 F.2d 1133, 1135 (4th Cir. 1992).

Because Lapides fails to establish a clear right to the relief he seeks, he is not entitled to mandamus relief. Thus, we affirm the district court's order for the reasons stated by the district court. Lapides v. National City Bank of Minneapolis, No. CA-04-467-1-WDQ (D. Md. Mar. 8, 2004). Additionally, we affirm the district court's order denying reconsideration. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED

JUDGMENT
FILED: June 17, 2004

UNITED STATES COURT OF APPEALS
for the Fourth Circuit

No. 04-1442
CA-04-467-1-WDQ

MORTON M. LAPIDES, SR.

Plaintiff - Appellant

v.

NATIONAL CITY BANK OF MINNEAPOLIS

Defendant - Appellee

Appeal from the United States District Court for the District of Maryland at Baltimore

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In accordance with the written opinion of this Court filed this day, the Court affirms the judgment of the District Court.

A certified copy of this judgment will be provided to the District Court upon issuance of the mandate. The judgment will take effect upon issuance of the mandate.

/s/ Patricia S. Connor
CLERK

APPENDIX B

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND

MORTON M. LAPIDES, SR	*	
	*	
Plaintiff	*	
	*	
v.	*	Civil Action No.
	*	WDQ-04-467
NATIONAL CITY BANK OF MINNEAPOLIS	*	
	*	
	*	
Defendant	*	

* * * * * *

MEMORANDUM

This is a Petition for Writ of Mandamus filed by Plaintiff pro se seeking an Order from this Court requiring a ruling on a Motion he filed in his bankruptcy case. Paper No. 1. In addition to his Petition, Plaintiff has paid the filing fee in this case.

Plaintiff is alleging in the instant case that he filed a Motion to Recuse Judge James F. Schneider on August 19, 2003 in the United States Bankruptcy Court. *Nat'l City Bank of Minneapolis v. Lapides (In re Transcolor Corp.)*, No. 98-6-5438-JS (Bankr.D.Md.2003). Paper No. 1. Plaintiff goes to great lengths to express his concern that the motion has been intentionally ignored or delayed and alleges a long history of bias against him by Judge Schneider in the bankruptcy proceedings. Id. In essence, Plaintiff points to the fact that Judge Schneider ruled against him in the proceedings as

evidence that the Judge should recuse himself in the case. Id. As examples of bias, Plaintiff points to Judge Schneider's failure to believe any of the witnesses presented on behalf of Plaintiff and he describes various rulings against him as being evidence of Judge Schneider's bias. Paper No. 4 at Ex. B. In addition, Mr. Lapides complains that Judge Schneider refer to him and his wife as "the Lapides" in his Memorandum opinion in the case. Id. This, Plaintiff asserts, is also evidence of bias because it could be read to include Plaintiff, his wife, his children and his grandchildren. Id. Plaintiff further complains that Judge Schneider denied a request filed by Plaintiff, in connection with a Rule 60(b) motion, to have the "entire NCB vs. Morton M. Lapides, Sr., et al . . . heard by another Judge". Id. at Ex.A. There is no mention by Plaintiff as to whether or not the Rule 60(b) motion has been denied.

A writ of mandamus is a drastic remedy which is available only in extraordinary circumstances when there are no other means by which the relief sought could be granted. *In re Beard*, 811 F.2d 818, 826 (4th Cir.1987) (*citing Kerr v. United States Dist*. Court, 426 U.S. 394, 402 (1976)). While mandamus is available to seek recusal of a federal judge in appropriate cases, Id. at 827, there is no basis presented in the instant case which would warrant the issuance of the extraordinary writ. First and foremost, there has already been a judgment entered against Mr. Lapides in the bankruptcy case. That judgment was entered on June 13, 2003, or approximately two months prior to the filing of the first Motion to Recuse, and seven months prior to the second Motion to Recuse which accompanied Plaintiff's Rule 60(b) motion. *Nat'l City Bank of Minneapolis v. Lapides (In re Transcolor Corp.)*, No. 98-6-5438-JS (Bankjr. D. Md. 2003). It appears that there is no "case" from which Mr. Lapides can

request that Judge Schneider be recused. In any event, the appropriate remedy for a party aggrieved by a judgment is to pursue an appeal. Mr. Lapides attempted to pursue an appeal in the case but he did not do so in a timely manner. See *Lapides v. National City Bank of Minneapolis*, Civil Action No. WDQ-03-2660 (D. Md. 2003) (finding that the notice of appeal as well as the motion for extension of time to file an appeal were not filed within time restrictions of Fed. R. Bankr. P. 8002(a)). It is well settled that a Petition for Writ of Mandamus is not a substitute for an appeal. *In re Catawba Indian Tribe*, 973 F.2d 1133, 1135 (4th Cir. 1992). It is also clear, as a matter of practicality, that a Motion to Recuse the judge in a closed case can not be used to revive a lost right of appeal. As previously explained by this Court, "[f]ailure to comply with Rule 8002 . . . divests the district court of jurisdiction over the appeal and mandates dismissal of the appeal." *Lapides*, Civil Action No. WD-03-2660 at Paper No. 6, p. 3 citing *Lane v. Sullivan*, 991 F. 2d 105, 107 (4th Cir. 1993). Finally, the accusations made by Plaintiff concerning alleged bias against him by Judge Schneider are simply disagreements with the merits of various ruling made by the Judge. There is simply nothing presented by Plaintiff in this case to establish even a suspicion that Judge Schneider might be biased against him. *See e.g. In re Beard, supra* (finding that judge's statement that president of Chapter 11 debtor was "a neighbor" and a "fine man" and his acquaintance with president were not reasonable bases for questioning judge's impartiality that would warrant disqualification of judge from presiding over Chapter 11 case.)

Accordingly, the Petition for Writ of Mandamus will be dismissed for failure to state a claim upon which relief may be granted. A separate Order follows.

3/8/04
Date

William D. Quarles, Jr.
United States District Judge

IN THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF MARYLAND

MORTON M. LAPIDES, SR	*	
	*	
Plaintiff	*	
	*	
v.	*	
	*	CIVIL NO.:
	*	WDQ-04-467
NATIONAL CITY BANK OF MINNEAPOLIS	*	
	*	
	*	
Defendant.	*	

* * * * * * * * *

ORDER

For the reasons stated in the foregoing Memorandum it is this 8th day of March 2004 by the United States District Court for the District of Maryland hereby ORDERED that:

1. The Petition for Writ of Mandamus is DISMISSED for failure to state a claim upon which relief may be granted;
2. The Clerk of the Court is DIRECTED to MAIL a copy of the foregoing Memorandum and a copy of this Order to Plaintiff; and

3. The Clerk of the Court is FURTHER DIRECTED to CLOSE this file.

William D. Quarles, Jr.
United States District Judge

APPENDIX C

UNITED STATES COURT OF APPEALS
for the Fourth Circuit

FILED July 20, 2004

No. 04-1442
CA-04-467-1-WDQ

MORTON M. LAPIDES, SR.

Plaintiff - Appellant

v.

NATIONAL CITY BANK OF MINNEAPOLIS

Defendant - Appellee

On Petition for Rehearing En Banc

The Appellant's petition for rehearing en banc was submitted to this Court. As no member of this Court requested a poll on the petition for rehearing en banc,

IT IS ORDERED that the petition for rehearing en banc is denied.

Entered for Judge Hamilton, Judge Williams, and Judge Traxler.

For the Court
/s/ Patricia S. Connor
CLERK

APPENDIX D

Motion	Dated Filed	Date Answered Or Ruled On	Answered or Days Lapsed (As of 10/15/04)
Court of Appeals - 4th Circuit - Informal Brief - Petition for Rehearing En Banc	6/28/04	7/20/04 (Denied)	22 days
District Court - Informal Brief -Notice of Appeal to Denial of Petition of Mandamus	5/2/04	6/17/04 (Denied)	46 days
District Court - Reconsideration of Petition for Writ of Mandamus	3/15/04	3/25/04 (Denied)	20 days
District Court - Amendment to Petition for Writ of Mandamus (Added Denial of Another Judge to Review Rule 60 (b) and Confidentiality and Protective Order)	3/2/04	Unanswered	197 days

APPENDIX D

District Court - Objection to Order Granting Motion to Compel Production of Documents from Cooter & Mangold, Charles S. Winner, Carr Goodson and Morton M. Lapides, Jr.	3/2/04	Unanswered	197 days
District Court -Appeal to Denial of Motion for a Judge Other Than Schneider to Review Rule 60 (b)	3/2/04	Unanswered	197 days
District Court -Petition for Writ of Mandamus	2/20/04	3/8/04 (Denied)	17 days
Bankruptcy Court - Motion for a Baltimore, Maryland Federal Bankruptcy Judge other than James F. Schneider to be assigned the Attached Motion (Rule 60 (b))	1/7/04	2/23/04 (Denied)	46 days
Bankruptcy Court - Motion for Relief from Judgment or Order Under Rule 60 (b)	1/7/04	Unanswered	252 days